## UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF NORTH CAROLINA STATESVILLE DIVISION CIVIL DOCKET NO.: 5:05CV227

| AMY WILMARTH,   | )                         |
|---|---------------------------|
| Plaintiff,  | )<br>)                    |
| v.  | )<br><u>JUDGMENT</u><br>) |
| F. ERWIN McKENZIE, JR.,<br>Executor of the Estate of<br>MARTHA W. McKENZIE, deceased, | )<br>)<br>)               |
| Defendant.  | )<br>)<br>)               |

**THIS MATTER** came to the Court for trial on July 7, 2008, before a duly impaneled jury and with the undersigned judge presiding.

After hearing the opening arguments of counsel, the evidence presented, the closing arguments of counsel, and the instructions of the Court, the jury returned a verdict on July 9, 2008 in open court, finding as follows:

- the decedent, Martha W. McKenzie, was negligent;
- the negligence of Martha W. McKenzie was a proximate cause of the injuries suffered by Plaintiff Amy Wilmarth;
- Plaintiff Amy Wilmarth is entitled to recover a sum total of \$225,000.00 from the Defendant Estate of Martha W. McKenzie.

Accordingly, it is hereby **ORDERED AND ADJUDGED** that the Defendant Estate of Martha W. McKenzie provide payment to Plaintiff Amy Wilmarth in the sum of \$225,000.00. The Court further **ORDERS** that the Defendant Estate also pay Plaintiff Wilmarth the appropriate pre-judgment interest on that sum. See N.C. Gen. Stat. § 24-

5(b) (stating that an award of compensatory damages in a non-contract action "bears interest from the date the action is commenced until the judgment is satisfied"); <u>Castles Auto & Truck Serv. v. Exxon Corp.</u>, 16 Fed. Appx. 163, 168 (4th Cir. 2001) (holding that the N.C. Gen. Stat. § 24-5(b) is "unambiguously mandatory").<sup>1</sup>

## SO ORDERED.

Signed: August 27, 2008

Richard L. Voorhees United States District Judge

<sup>&</sup>lt;sup>1</sup>This Final Judgment does not affect the Taxation of Costs entered by the Clerk of the Court on August 15, 2008. Furthermore, payment of the costs is excluded from bearing interest. See N.C. Gen. Stat. § 24-5(b).